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*Not timely filed.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

LYNETTE GONZALEZ, MICHAELA
FURDZOVA, LUCAS MARISCAL,
STEPHANIE PORTER, SEATON COLLARD
JAMES COFFIN, LAWRENCE EBEL,
PATRICK ROJAS, SYMONE SWEAZIE,
SARAH COWART, KYMBERLY LOVETT,
KIM MILLER, DAN SCALF, DAVID
ULERY, RICKY WRIGHT, MICHAEL
MILLER, CLAUDE VOGEL, ARLETA
KORDYLEWSKA, BROOKE TOLAN,
KEISHA WALTON, MICHELLE
GROCHOWSKI, RAQUEL PEREZ, and
SANDRA NICLAS individually and on behalf
of all others similarly situated,

Plaintiff,

v.

HEALTH-ADE. LLC, a Delaware limited
liability company

Defendant.

CASE NO. 3:18-cv-01836-MMC
(Assigned to Hon. Maxine M. Chesney)

**REQUEST FOR AN ORDER TO PERMIT
PARTICIPATION IN MEDIATION
SCHEDULED FOR JUNE 26, 2018**

[Filed concurrently with [Proposed] Order
Granting Request for an Order to Permit
Participation in Mediation Scheduled for June
26, 2018]

Complaint Filed: 3/23/18

MORGAN & MORGAN

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1 Plaintiffs Lynette Gonzalez, Michaela Furdzova, Lucas Mariscal, Stephanie Porter,
2 Seaton Collard, James Coffin, Lawrence Ebel, Patrick Rojas, Symone Sweazie, Sarah
3 Cowart, Kymberly Lovett, Kim Miller, Dan Scalf, David Ulery, Ricky Wright, Michael
4 Miller, Claude Vogel, Arleta Kordylewska, Brooke Tolan, Keisha Walton, Michelle
5 Grochowski, Raquel Perez and Sandra Niclas (“Plaintiffs”) have come to understand that
6 Defendant Health-Ade LLC (“Defendant” or “Health-Ade”) plan to engage in mediation
7 with plaintiffs in the related action *Bayol, et al. v. Health-Ade LLC, et. al.*, Case No. 18-cv-
8 01462-MMC, on June 26, 2018.

9 Although counsel for Plaintiffs have attempted in good faith to participate in the
10 mediation, and Defendant’s counsel takes no position, counsel for the *Bayol* Plaintiffs has
11 informed undersigned that the mediation is closed solely to the *Bayol* parties, even after
12 this Court related the cases. (Doc. 14). By this Motion, Plaintiffs hereby move to be
13 permitted to attend and participate in such mediation.

14 Plaintiff Lucas Mariscal (“Plaintiff Mariscal”) is a resident of Vancouver,
15 Washington who purchased Health-Ade kombucha beverage products in both Oregon and
16 Washington. Plaintiff Mariscal brings claims *inter alia*, under the Oregon Trade Practices
17 Law (Or. Rev. Stat. §646.605 *et. seq.*) and the Washington Consumer Protection Act
18 (Wash. Rev. Code §19.86.010 *et. seq.*).

19 Plaintiff Stephanie Porter (Plaintiff Porter”) is a citizen of Oregon and also brings
20 claims *inter alia*, pursuant to the Oregon Trade Practices Law (Or. Rev. Stat. §646.605 *et.*
21 *seq.*).

22 Plaintiff Seaton Collard (“Plaintiff Collard”) is a citizen of Texas who brings claims
23 in this action pursuant to, *inter alia*, the Texas Deceptive Trade Practices- Consumer
24 Protection Act (Tex. Rev. Code §17.41 *et. seq.*).

25 Plaintiff Symone Sweazie (“Plaintiff Sweazie”) is a citizen of New Jersey, who
26 brings claims in this action pursuant to, *inter alia*, the New Jersey Deceptive Trade
27 Practices Act (N.J. Stat. Ann. §56:8-91 *et. seq.*).

28 Plaintiff Patrick Rojas (“Plaintiff Rojas”) is a citizen of Florida who brings claims

1 in this action pursuant to, *inter alia*, the Florida Deceptive Trade Practices Act (Fla. Stat.
2 Ann. §501.201 *et. seq.*).

3 Plaintiff Lawrence Ebel (“Plaintiff Ebel”) is a citizen of Hawaii who brings claims
4 in this action pursuant to, *inter alia*, the Hawaii Unfair and Deceptive Trade Practices Act
5 (Haw. Rev. Stat. §480-1 *et. seq.*).

6 Plaintiff Sarah Cowart (“Plaintiff Cowart”) is a citizen of Massachusetts who brings
7 claims in this action pursuant to, *inter alia*, the Massachusetts Business Practice and
8 Consumer Protection Act (Mass. Gen. Laws Ann. §93A-1 *et. seq.*).

9 Plaintiff Kymberly Lovett (“Plaintiff Lovett”) is a citizen of Minnesota who brings
10 claims in this action pursuant to, *inter alia*, the Minnesota False Statement in Advertizing
11 Act (Minn. Stat. §325F.67) and the Minnesota Prevention of Consumer Fraud Act (Minn.
12 Stat. §325F.68 *et. seq.*).

13 Plaintiff Kim Miller (“Plaintiff Miller”), is a citizen of Michigan who brings claims
14 in this action pursuant to, *inter alia*, the Michigan Consumer Protection Act (Mich. Comp.
15 Laws §§445.901 *et. seq.*).

16 Plaintiff Dan Scalf (“Plaintiff Scalf”) is a citizen of Indiana who brings claims in
17 this action pursuant to, *inter alia*, the Indiana Deceptive Consumer Sales Act (Ind. Code
18 §24-5-0.5-1 *et. seq.*).

19 Plaintiff David Ulery (“Plaintiff Ulery”) is a citizen of Colorado who brings claims
20 in this action pursuant to, *inter alia*, the Colorado Consumer Protection Act (Colo. Rev.
21 Stat. §6-1-101 *et. seq.*).

22 Plaintiff Ricky Wright (“Plaintiff Wright”) is a citizen of Georgia who brings claims
23 in this action pursuant to, *inter alia*, the Georgia Fair Business Practices Act (Ga. Code
24 Ann. §10-1-390 *et. seq.*).

25 Plaintiff Michael Miller (“Plaintiff Miller”), is a citizen of Tennessee who
26 purchased Health-Ade Kombucha products in Tennessee and Alabama brings claims in this
27 action pursuant to, *inter alia*, the Tennessee Consumer Protection Act (Tenn. Code Ann.
28 §47-18-101 *et. seq.*).

1 Plaintiff Claude Vogel (“Plaintiff Vogel”) is a citizen of Illinois who brings claims
 2 in this action pursuant to, *inter alia*, the Illinois Consumer Fraud and Deceptive Business
 3 Practices Act (815 Ill. Comp. Stat. 505/1 *et. seq.*).

4 Plaintiff Arleta Kordylewska (“Plaintiff Kordylewska”) is a citizen of Connecticut
 5 who brings claims in this action pursuant to, *inter alia*, the Connecticut Unfair Trade
 6 Practices Act (Conn. Gen. Stat. §42-110a *et. seq.*).

7 Plaintiff Brooke Tolan (“Plaintiff Tolan”) is a citizen of Ohio who brings claims in
 8 this action pursuant to, *inter alia*, the Ohio Consumer Sales Practices Act (Ohio. Rev. Code
 9 Ann. §1345.01 *et. seq.*).

10 Plaintiff Keisha Walton (“Plaintiff Walton”) is a citizen of Maryland who purchased
 11 Health-Ade kombucha beverages in the State of Maryland and in Washington D.C. Plaintiff
 12 Walton brings claims in this action pursuant to, *inter alia*, the Maryland Consumer Act
 13 (Md. Code Ann. §13-101 *et. seq.*) and the District of Columbia Consumer Protection
 14 Procedures Act (DC Official Code §§ 28-3901 *et. seq.*)

15 Plaintiff Michelle Grochowski (“Plaintiff Grochowski”) is currently a citizen of
 16 North Carolina, however, during the Class Period, Plaintiff Grochowski was also a citizen
 17 of Iowa. Plaintiff Grochowski brings claims in this action pursuant to, *inter alia*, the North
 18 Carolina Unfair and Deceptive Trade Practices Act (N.C. Gen. Stat. §75-1.1 *et. seq.*).

19 Plaintiff Raquel Perez (“Plaintiff Perez”) is a citizen of New Hampshire who brings
 20 claims in this action pursuant to, *inter alia*, the New Hampshire Consumer Protection Act
 21 (N.H. Rev. Stat. Ann. §358-A:1 *et. seq.*).

22 Based upon the above, Plaintiffs submit that their interests are not being adequately
 23 represented in the mediation occurring in the related *Bayol* action. By and through their
 24 counsel, Plaintiffs have requested permission to attend the mediation on behalf of class
 25 members in their respective states of purchase and/or resident but have been rebuffed by
 26 counsel for plaintiffs in the *Bayol* action. Defendant has not taken a position in opposition
 27 to Plaintiffs’ participation in such mediation provided counsel in *Bayol* agree to such
 28 participation.

CONCLUSION

WHEREFORE, Plaintiffs move for entry of an ORDER requiring counsel in the *Bayol* action to permit Attorneys for Plaintiffs to attend the mediation scheduled for June 26, 2018.

DATED: June 25, 2018

**BRADLEY/GROMBACHER, LLP
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By: /s/ Kiley Lynn Grombacher

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